

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Paris Da'Jon Allen,

Case No. 15-cv-1905 (WMW/SER)

Plaintiff,

v.

**ORDER ADOPTING REPORT AND
RECOMMENDATION**

Kathy Reid, Kelly Classen, Dr. Stephen
Craane,¹ Dietian, and Nan Larson,

Defendants.

This matter is before the Court on the April 20, 2017 Report and Recommendation of United States Magistrate Judge Steven E. Rau. (Dkt. 189.) This Court reviews de novo those portions of a Report and Recommendation to which an objection is made, and the court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1); *accord* Fed. R. Civ. P. 72(b)(3); LR 72.2(b)(3). This Court reviews for clear error those portions of a Report and Recommendation to which no objections are made. *See* Fed. R. Civ. P. 72(b) 1983 advisory committee note; *Grinder v. Gammon*, 73 F.3d 793, 795 (8th Cir. 1996) (per curiam).

Plaintiff Paris Da'Jon Allen filed timely objections that largely do not respond to the Report and Recommendation. (Dkt. 190.) Instead, the majority of Allen's objections reiterate arguments that Allen made in prior filings, which the Court previously rejected.

¹ Consistent with the pending Report and Recommendation, the Court has corrected the spelling of this defendant's name per his answer.

Allen has provided no legal basis for the Court to revisit those arguments now. Allen's objections also raise a First Amendment argument that is not alleged in the complaint and, therefore, need not be addressed. *See Thomas v. United Steelworkers Local 1938*, 743 F.3d 1134, 1140 (8th Cir. 2014) (concluding that a complaint cannot be amended through a brief).

The only objections Allen raises that are responsive to the Report and Recommendation pertain to his arguments that Defendants acted with deliberate indifference to serious medical needs when they "disobey[ed] Health Service Director Defendant Nanette Larson's directive and refused to see the plaintiff at no cost and modify his diet upon the grievance appeal." Having reviewed de novo those portions of the Report and Recommendation to which Allen has objected, the Court finds that Allen's objections are not supported by any evidence in the record and, therefore, overrules the objections. The Court also finds that the Report and Recommendation is not clearly erroneous in any other respect.

Based on the Report and Recommendation, the foregoing analysis and all the files, records and proceedings herein, **IT IS HEREBY ORDERED:**

1. Plaintiff Paris Da'Jon Allen's objections to the April 20, 2017 Report and Recommendation, (Dkt. 190), are **OVERRULED**.

2. The April 20, 2017 Report and Recommendation, (Dkt. 189), is **ADOPTED**.

3. Plaintiff Paris Da'Jon Allen's amended complaint, (Dkt. 7), to the extent that it advances claims for damages under 42 U.S.C. § 1983 and state-law claims against

Defendants Kathy Reid, Nanette Larson, and Dr. Stephen Craane, is **DISMISSED WITHOUT PREJUDICE** for lack of subject-matter jurisdiction.

4. Defendants Kathy Reid and Nanette Larson's motion for summary judgment, (Dkt. 167), is **GRANTED** with respect to Allen's claims against them alleged under 42 U.S.C. § 1983 for injunctive relief and **DENIED AS MOOT** in all other respects.

5. Defendant Dr. Stephen Craane's motion for summary judgment, (Dkt. 175), is **GRANTED** with respect to Allen's claims against him alleged under 42 U.S.C. § 1983 for injunctive relief and **DENIED AS MOOT** in all other respects.

6. Plaintiff Paris Da'Jon Allen's amended complaint, (Dkt. 7), to the extent that it advances claims against Kelley Classen and "Dietian," is **DISMISSED WITHOUT PREJUDICE**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: July 10, 2017

s/Wilhelmina M. Wright
Wilhelmina M. Wright
United States District Judge